



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0069]

Hours of Service of Drivers: Application for Exemption; Timberdoodle Company

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Timberdoodle Company (Timberdoodle) has applied for an exemption from a provision of the “Hours of Service [HOS] of Drivers” regulations (49 CFR part 395). Timberdoodle seeks exemption from section 395.3(b)(1) which prohibits drivers of commercial motor vehicles (CMVs) from driving after accumulating 60 hours on duty in a period of 7 days. Timberdoodle asks that its drivers be exempted from including on-duty time that is not driving time in this calculation. Timberdoodle states that CMV operations under its proposed rules are likely to achieve a level of safety equivalent to or greater than the level of safety as would be obtained in the absence of the exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2013-0069 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington D.C. 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov at any time and in the box labeled “SEARCH for” enter FMCSA-2013-0069 and click on the tab labeled “SEARCH.”

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines by clicking on the word “Help” at the top of the Portal home page. If you want us to notify you that we received your comments, please include a self-addressed,

stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31315 and 31136(e) to grant exemptions from certain parts of the FMCSRs. The Agency is required to publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. FMCSA must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request. FMCSA reviews safety analyses and public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** with the reasons for denying or granting the application, and if granted, the name of the person or class of persons receiving the exemption, and the regulatory provisions from which the exemption is granted [49 CFR 381.315(b) and (c)]. The notice must specify the effective period of the exemption, and its terms or conditions. The exemption may be renewed [49 CFR 381.300(b)].

The HOS Rules

Part 395 of volume 49 of the Code of Federal Regulations, “Hours of Service of Drivers,” prescribes various maximums, such as driving time, as well as minimums, such as the amount of off-duty time, that the driver of a property-carrying CMV must obtain before beginning a duty period. Section 395.3 prohibits driving after a driver has been on duty for 60 hours in a period of 7 consecutive days, or 70 hours in 8 consecutive days if a company operates every day of the week. On-duty time includes both time spent operating a CMV, recorded as “on duty/driving” time, and time spent at the employer’s behest on matters other than driving, recorded as “on duty/not driving” time.

Application for Exemption

Timberdoodle uses its CMVs to travel to conferences and conventions, where it sets up sales displays. The CMV drivers staff the display booth, which consumes more of their time than driving.

Timberdoodle is asking that two of its drivers be exempt from the HOS rule prohibiting driving after drivers accumulate a total of 60 hours of on-duty time in any period of 7 consecutive days. Timberdoodle requests that, instead, its drivers be subject to the prohibition after 60 hours of driving time in any 7 consecutive day period. “On duty/not driving” time would be removed from the calculation of total hours on duty.

Timberdoodle drivers would comply with all other HOS regulations.

A copy of Timberdoodle’s application for exemption is in Docket FMCSA-2013-0069.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Timberdoodle’s application for exemption from section 395.3(b)(1). The

Agency will consider all comments received by close of business on [INSERT DATE 20 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.]. Comments will be available for examination in the docket as explained in the “ADDRESSES” section of this notice under the term “Docket.” The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: April 24, 2013

Larry W. Minor
Associate Administrator for Policy

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